to obstructions which are fixed and stationary, and does not apply to such as require the exercise of the governmental power over the conduct of others. *Cf. Bartlett v. Hooksett* (1868) 48 N. H. 18. But although mere failure to prevent this latter class of obstruction is not a breach of this municipal duty, yet encouraging dangerous conduct by express license does impose a liability. *Little v. Madison* (1880) 49 Wis. 605, 6 N. W. 249; *Johnson v. New York* (1906) 186 N. Y. 139, 78 N. E. 715 (automobile race); but see *Marth v. Kingfisher* (1908) 22 Okla. 602, 98 Pac. 436. It seems, however, that the conduct licensed must be a nuisance *per se*. *Burford v. Grand Rapids* (1884) 53 Mich. 98, 18 N. W. 571. The municipal immunity in the principal case may be explained on the ground that the jury found that the race run was not the one scheduled and thus licensed.

CORPORATIONS—MUNICIPAL CORPORATIONS—TERM OF OFFICE—RESIGNATION.—The respondent was elected to the office of recorder for the term of one year, ending July 10, 1919. The statute creating that office provided that the incumbent should not "be eligible to any other office in the city of Athens during the term of his office as recorder." On August 7, 1918, he resigned to accept an appointment by the Mayor on the Civil Service Commission. *Quo warranto* proceedings were then instituted. *Held,* that the respondent was ineligible to any other office for the whole year for which he was elected to office of recorder. *Rowe v. Tuck* (1919, Ga.) 99 S. E. 303.

The phrase "his term of office" is ambiguous and when in connection with constitutional limitations or statutory disabilities raises the question of legislative intent. It may be used in connection with a disability whch is personal to the incumbent. *State ex rel. Bashford v. Frear* (1909) 138 Wis. 536, 120 N. W. 216. Or in connection with a disability attached to the office. *Foreman v. McEwen* (1904) 209 Ill. 567, 71 N. E. 35 (constitutional prohibition of change of salary). Ordinarily a "term of office" is an entity, separate and distinct from all other terms of the same office. *Thurston v. Clark* (1895) 107 Calif. 285, 40 Pac. 435. It means a fixed and definite period of time. *Polk v. Galusha* (1905) 74 Neb. 188, 104 N. W. 197; *State ex inf. Major ex rel. Sikes v. Williams* (1909) 222 Mo. 268, 121 S. W. 64. This fixed period of time cannot be altered by resolution of appointment. *Stadler v. Detroit* (1865) 13 Mich. 346; *State v. Brady* (1885) 42 Oh. St. 504. It is not the same as "right of incumbency," which may have come to an end although the term still exists. *Palmer v. Commonwealth* (1906) 122 Ky. 693, 92 S. W. 588. In such a case, the one who succeeds to the right of incumbency merely completes the unexpired term. *Baker v. Kirk* (1870) 43 Ind. 517; *Jameson v. Hudson* (1886) 82 Va. 279. The disability in the principal case is one personal to the incumbent. When a personal disability is imposed by ouster, it has been held to extend over the whole period of the term. *State v. Rose* (1906) 74 Kan. 262, 86 Pac. 296. The court in holding that the respondent cannot diminish the period of his disability, by voluntary resignation, seems to have arrived at a sound conclusion.

CRIMINAL LAW—ASSAULT WITH INTENT TO RAPE—SUBSEQUENT YIELDING.—Defendant was convicted of assault with intent to rape. He took exceptions to the refusal of the trial court to give instructions that the defendant could not be found guilty of assault with intent to rape, if the prosecutrix yielded after the assault, to sexual intercourse with the defendant, because of desire and not through fear or inability to resist further. *Held,* that the instruction

was properly refused, since subsequent yielding and consent cannot relate back and cover the preceding acts. Brown, C. J. *dissenting. Gadsden v. State* (1919, Fla.) 82 So. 50.

The principle laid down in the instant case is in line with the weight of authority. *People v. Marrs* (1900) 125 Mich. 376, 84 N. W. 284; *State v. Bagan* (1889) 41 Minn. 285, 43 N. W. 5. There cannot be an assault with intent to rape where the female consents at the time of the assault. See 33 *Cyc.* 1433, note 45. Nor where there was mere solicitation for sexual intercourse, without any demonstration of strenuous force. *State v. Sanders* (1912) 92 S. C. 427, 75 S. E. 702; *Easterling v. State* (1919, Miss.) 82 So. 306. The intent of the defendant to commit rape must be proved, and the female must have offered resistance at the time of the assault, in order to procure conviction for assault with intent to rape. *Hunter v. State* (1892) 29 Fla. 486, 10 So. 730. Voluntary abandonment of purpose may be shown and considered as bearing on his intent. It is probable that the subsequent yielding of the female would be admitted to prove the intent of the accused at the time of the assault, although no case on this point was found.

EQUITY—JURISDICTION—EXTRA-TERRITORIAL EFFECT OF DECREE.—The plaintiff brought suit for divorce against the defendant in the State of Washington. The court having jurisdiction of the cause and the parties, decreed: (1) dissolution of the marriage; (2) that the defendant convey to the plaintiff certain real estate in Iowa. Immediately after the decree, the defendant left Washington and went to Iowa where he transferred the property in question to A who took with notice. The plaintiff brought suit in Iowa upon the Washington decree and prayed that the deed from the defendant to A be set aside and that the defendant be required to convey to plaintiff. Personal service was had on both defendants. *Held,* that the plaintiff was entitled to the relief sought. *Matson v. Matson* (1919, Iowa) 173 N. W. 127.

The power of a "foreign" court to create by decree a personal obligation concerning domestic land has been denied by courts of the *situs* of the land. *Bullock v. Bullock* (1894, Ct. Err. & App.) 52 N. J. Eq. 561, 30 Atl. 676; *Fall v. Fall* (1905) 75 Neb. 104, 120, 113 N. W. 175. Nor can such courts be compelled to recognize the foreign decree. *Fall v. Eastin* (1909) 215 U. S. 1, 30 Sup. Ct. 3. In support of this position two arguments are commonly advanced: (1) That an equitable decree ordering the conveyance of land creates no obligation in another jurisdiction and therefore will not support a suit. *Bullock v. Bullock, supra* (per Magie, J.) 3 Beale, *Cases on the Conflict of Laws* (1902) 348; Beale, *Summary of the Conflict of Laws* (1902) sec. 82; note (1912) 25 HARV. L. REV. 653. A decree for the payment of money, however, is universally recognized as creating a binding obligation. *Post v. Neafie* (1805, N. Y.) 3 Cai. 22; *Pennington v. Gibson* (1853, U. S.) 16 How. 65, 16 L. ed. 847; *Sistare v. Sistare* (1910) 218 U. S. 1, 30 Sup. Ct. 682. It is difficult to see how the decree for money can be satisfactorily distinguished from the decree for conveyance in this respect. (2) That to admit the "foreign" decree would violate the settled principle that real property is "exclusively subject to the laws and jurisdiction of the courts of the state in which it is situated." *Davis v. Headley* (1871) 22 N. J. Eq. 115; *Fall v. Fall, supra.* But a deed executed in pursuance of the "foreign" decree is recognized at the *situs* of the land and cannot be avoided on the ground of duress. *Gilliland v. Inabnit* (1894) 92 Iowa, 46, 60 N. W. 211. So this argument is robbed of its force. The principal case takes the sounder view and finds ample support in authority. *Dunlap v. Byers* (1896) 110 Mich. 109, 67 N. W. 1067; *McCune v. Goodwillie* (1907) 204 Mo. 306, 102 S. W. 997; *Burnley v. Stevenson* (1873) 24 Oh. St.